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HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			WEST, LEWIS G	
			ART UNIT	PAPER NUMBER
			2682	7

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/845,241

Applicant(s)

GORSUCH, THOMAS E.

Examiner

Lewis G. West

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25, 38, 45 and 58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant claims that content type is determined by a service port number, there are ^{no} service port numbers in a wireless system. For examination the limitation "service port number" will be ignored.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 7-11, 14-18 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Hollenberg et al. (US 6,091,956)

Regarding claim 1, Hollenberg discloses a system for delivering content to a portable wireless transceiver, comprising: first wireless transceiver in communication with a second

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wireless transceiver via a wireless communication link, wherein at least one of the wireless transceiver is a portable wireless transceiver; a mobility state associated with the portable wireless transceiver; and a module for limiting the transmission of content over the communication link based on the mobility state. (col. 23 lines 12-col. 24 lines 63)

Regarding claim 2, Hollenberg discloses the system of Claim 1 wherein the communication link includes a Code Division Multiple Access based protocol. (Col. 5 lines 13-46)

Regarding claim 3, Hollenberg discloses the system of Claim 1 wherein the mobility state is one of at least three mobility states. (Col. 23 lines 12-col. 24 lines 63)

Regarding claim 4, Hollenberg discloses the system of Claim 3 wherein the mobility states include a stationary state, a pedestrian state, and a mobile state. (Col. 23 lines 12-col. 24 lines 63)

Regarding claim 7, Hollenberg discloses the system of Claim 6 further comprising a representation of the deliverable content types displayed to a user of the portable wireless transceiver. (Col. 24 lines 12-27)

Regarding claim 8, Hollenberg discloses a method of delivering content to a portable wireless transceiver, comprising: establishing a wireless communication link between a first wireless transceiver and a second wireless transceiver, at least one of the wireless transceivers being a portable wireless transceiver; detecting a mobility state of the portable wireless transceiver; and based on the detected mobility state, limiting the transmission of content over the communication link. (col. 24 lines 12-col. 25 lines 63)

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Regarding claim 9, Hollenberg discloses the method of Claim 8 wherein the communication link includes a Code Division Multiple Access based protocol. (Col. 5 lines 13-46)

Regarding claim 10, Hollenberg discloses the method of Claim 8 further comprising selecting the mobility state from at least three mobility states. (Col. 23 lines 12-col. 24 lines 63)

Regarding claim 11, Hollenberg discloses the method of Claim 10 wherein the mobility states include a stationary state, a pedestrian state, and a mobile state. (Col. 23 lines 12-col. 24 lines 63)

Regarding claim 14, Hollenberg discloses the method of Claim 8 further comprising displaying, on the portable wireless transceiver, a representation of the deliverable content types to a user. (Col. 24 lines 12-27)

Regarding claim 15, Hollenberg discloses an article of manufacture, comprising: a computer-usable medium; a set of computer operating instructions embodied on the medium, including instructions for a method of delivering content to a portable wireless transceiver, comprising instructions for: establishing a wireless communication link between a first wireless transceiver and a second wireless transceiver, at least one of the wireless transceivers being a portable wireless transceiver; detecting a mobility state of the portable wireless transceiver; and based on the detected mobility state, limiting the transmission of content over the communication link. (Col. 23 lines 12-col. 24 lines 63)

Regarding claim 16, Hollenberg discloses the article of Claim 15 wherein the instructions include establishing a Code Division Multiple Access based communication link. (Col. 5 lines 13-46)

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Regarding claim 17, Hollenberg discloses the article of Claim 15 further comprising instructions for selecting the mobility state from at least three mobility states. (Col. 23 lines 12-col. 24 lines 63)

Regarding claim 18, Hollenberg discloses the article of Claim 17 wherein the instructions define the mobility states to include a stationary state, a pedestrian state, and a mobile state. (Col. 23 lines 12-col. 24 lines 63)

Regarding claim 21, Hollenberg discloses the article of Claim 15 further comprising instructions for displaying, on the portable wireless transceiver, a representation of the deliverable content types to a user. (Col. 24 lines 12-27)

4. Claims 22, 23, 28-30, 42, 43 and 48-50 rejected under 35 U.S.C. 102(e) as being anticipated by Hsu (US 6,169,898).

Regarding claim 22, Hsu discloses a computing system for affecting the transmission of content over a wireless communication link, comprising: a portable wireless transceiver in communication with a wireless communication link, wherein the portable wireless transceiver has an associated level of service and a mobility state; and a computer program routine operating on the level of service and the mobility state to affect the rate of data transmitted over the wireless communication link. (Col. 8 lines 15-61)

Regarding claim 23, Hsu discloses the computing system of Claim 22, wherein the level of service is based on a pricing plan associated with the portable wireless transceiver. (Col. 8 lines 15-61)

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Regarding claim 28, Hsu discloses the computing system of Claim 22 wherein the mobility state is selected from at least three mobility states. (Col. 8 lines 15-61)

Regarding claim 29, Hsu discloses the computing system of Claim 22 wherein the mobility state is computed from a metric associated with the wireless communication link. (Col. 8 lines 15-61)

Regarding claim 30, Hsu discloses the computing system of Claim 22 wherein the mobility state is computed from mobility data in the portable wireless transceiver. (Col. 8 lines 15-61)

Regarding claim 42, Hsu discloses a method for affecting the transmission of content over a wireless communication link, comprising: placing a portable wireless transceiver in communication with a wireless communication link, wherein the portable wireless transceiver has an associated level of service and a mobility state; and in a computer program routine, operating on the level of service and the mobility state to affect the rate of data transmitted over the wireless communication link. (Col. 8 lines 15-61)

Regarding claim 43, Hsu discloses the method of Claim 42 wherein the level of service is based on a pricing plan associated with the portable wireless transceiver. (Col. 8 lines 39-46)

Regarding claim 48, Hsu discloses the method of Claim 42 wherein the mobility state is selected from at least three mobility states. (Col. 8 lines 15-61)

Regarding claim 49, Hsu discloses the method of Claim 42 wherein the mobility state is computed from a metric associated with the wireless communication link. (Col. 8 lines 15-61)

Regarding claim 50, Hsu discloses the method of Claim 42 wherein the mobility state is computed from mobility data in the portable wireless transceiver. (Col. 8 lines 15-61)

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5. Claims 1, 5, 6, 8, 12, 13, 15, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Shannon (US 6,032,044).

Regarding claim 1, Shannon discloses a system for delivering content to a portable wireless transceiver, comprising: first wireless transceiver in communication (10) with a second wireless transceiver (11) via a wireless communication link, wherein at least one of the wireless transceiver is a portable wireless transceiver (10); a mobility state associated with the portable wireless transceiver; and a module for limiting the transmission of content over the communication link based on the mobility state. (Col. 5 lines 65-Col. 6 line 31)

Regarding claim 5, the system of Claim 1 wherein the mobility state is associated with at least one pricing plan from a plurality of available pricing plans. (Col. 3 lines 51-59)

Regarding claim 6, the system of Claim 5 wherein each pricing plan is associated with a respective set of deliverable content types based on the mobility state. (Col. 3 lines 51-59)

Regarding claim 8, Shannon discloses a method of delivering content to a portable wireless transceiver, comprising: establishing a wireless communication link between a first wireless transceiver and a second wireless transceiver, at least one of the wireless transceivers being a portable wireless transceiver; detecting a mobility state of the portable wireless transceiver; and based on the detected mobility state, limiting the transmission of content over the communication link. (Col. 5 lines 65-Col. 6 line 31)

Regarding claim 12, the method of Claim 8 further comprising associating the detected mobility state with at least one pricing plan from a plurality of available pricing plans. (Col. 3 lines 51-59)

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Regarding claim 13, the method of Claim 12 further comprising defining, for each pricing plan, a respective set of deliverable content types based on the mobility state. (Col. 3 lines 51-59)

Regarding claim 15, Shannon discloses an article of manufacture, comprising: a computer-usable medium; a set of computer operating instructions embodied on the medium, including instructions for a method of delivering content to a portable wireless transceiver, comprising instructions for: establishing a wireless communication link between a first wireless transceiver and a second wireless transceiver, at least one of the wireless transceivers being a portable wireless transceiver; detecting a mobility state of the portable wireless transceiver; and based on the detected mobility state, limiting the transmission of content over the communication link. (Col. 5 lines 65-Col. 6 line 31)

Regarding claim 19, the article of Claim 15 further comprising instructions for associating the detected mobility state with at least one pricing plan from a plurality of available pricing plans. (Col. 3 lines 51-59)

Regarding claim 20, the article of Claim 19 further comprising instructions for defining, for each pricing plan, a respective set of deliverable content types based on the mobility state. (Col. 3 lines 51-59)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 24-27 and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu in view of Widegren.

Regarding claim 24, Hsu discloses the computing system of Claim 22 but does not expressly disclose associating different content types with level of service. Widegren discloses a system wherein the level of service identifies a plurality of allowed content types transmittable over the wireless communication link based on service level. (Col. 11 line 52-col. 12 line 32) Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to associate level of service with content type as certain content types are more resource intensive and thus require a higher level of service.

Regarding claim 25, the combination of Hsu and Widegren discloses the computing system of Claim 24 wherein each allowed content type is identified. (Col. 11 lines 52-67)

Regarding claim 26, the combination of Hsu and Widegren discloses the computing system of Claim 24 wherein each allowed content type is identified by a respective protocol identifier. (Col. 11 lines 52-67)

Regarding claim 27, the combination of Hsu and Widegren discloses the computing system of Claim 24 wherein each allowed content type is identified by a respective file type. (Col. 11 lines 52-67)

Regarding claim 44, Hsu discloses the method of Claim 42 but does not expressly disclose associating different content types with level of service. Widegren discloses a system wherein the level of service identifies a plurality of allowed content types transmittable over the wireless communication link based on service level. (Col. 11 line 52-col. 12 line 32) Therefore

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it would have been obvious to one of ordinary skill in the art at the time of the invention to associate level of service with content type as certain content types are more resource intensive and thus require a higher level of service.

Regarding claim 45, Hsu discloses the method of Claim 44 wherein each allowed content type is identified. (Col. 11 lines 52-67)

Regarding claim 46, Hsu discloses the method of Claim 44 wherein each allowed content type is identified by a respective protocol identifier. (Col. 11 lines 52-67)

Regarding claim 47, Hsu discloses the method of Claim 44 wherein each allowed content type is identified by a respective file type. (Col. 11 lines 52-67)

8. Claims 31-32 and 51-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu in view of Shannon.

Regarding claim 31, Hsu discloses the computing system of Claim 22 but does not disclose disallowing a transmission. Shannon discloses a system wherein the computer program routine determines a disallowed transmission. (Col. 4 lines 36-67) Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have a system wherein the computer program routine determines a disallowed transmission, in order to prevent a user from gaining services that are not paid for.

Regarding claim 32, the combination of Hsu and Shannon discloses the computing system of Claim 31 wherein the computer program routine blocks transmission of the disallowed transmission over the wireless communication link.

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Regarding claim 51, Hsu discloses the method of Claim 42 wherein the computer program routine determines a disallowed transmission. Shannon discloses a system wherein the computer program routine determines a disallowed transmission. (Col. 4 lines 36-67) Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have a system wherein the computer program routine determines a disallowed transmission, in order to prevent a user from gaining services that are not paid for. (Col. 4 lines 36-67)

Regarding claim 52, the combination of Hsu and Shannon discloses the method of Claim 51 wherein the computer program routine blocks transmission of the disallowed transmission over the wireless communication link. (Col. 4 lines 36-67)

9. Claims 33-41 and 53-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shannon in view of Mizikovsky.

Regarding claim 33, Shannon discloses a communication system comprising: a base station having a wireless transceiver; a computer coupled to a portable wireless transceiver, the portable wireless transceiver having an associated pricing plan; a wireless communication link for transmitting data between the base station transceiver and the portable transceiver; and a content filter (Col. 4 lines 36-67) for blocking data from transmission over the wireless communication link based on the pricing plan (Col. 3 lines 51-60) and the mobility state (Col. 4 lines 1-17), but does not expressly disclose a mobility processing routine in the base station for storing a mobility state for the portable wireless transceiver. Mizikovsky discloses a mobility processing routine in the base station for storing a mobility state for the portable wireless transceiver. (Col. 11 line 55-Col. 12 line 40) Therefore it would have been obvious to one of

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ordinary skill in the art at the time of the invention to store a mobility state in the base station in order to centralize the functions of the system.

Regarding claim 34, the combination of Shannon and Mizikovsky discloses the communication system of Claim 33 wherein the mobility state is computed by a processor in the base station. (Mizikovsky Col. 11 line 55-Col. 12 line 40)

Regarding claim 35, the combination of Shannon and Mizikovsky discloses the communication system of Claim 34 wherein the mobility state is computed from data derived from the performance of the wireless communication link. (Mizikovsky Col. 11 line 55-Col. 12 line 40)

Regarding claim 36, the combination of Shannon and Mizikovsky discloses the communication system of Claim 34 wherein the mobility state is computed from data provided by the portable wireless transceiver. (Mizikovsky Col. 11 line 55-Col. 12 line 40)

Regarding claim 37, the combination of Shannon and Mizikovsky discloses the communication system of Claim 33 wherein the content filter further blocks data based on a content type associated with the data. (Col. 4 lines 5-67)

Regarding claim 38, the communication system of Claim 37 wherein the content type is represented by a service port number. (Col. 4 lines 5-67)

Regarding claim 39, the communication system of Claim 37 wherein the content type is represented by a message protocol. (Col. 4 lines 5-67)

Regarding claim 40, the communication system of Claim 37 wherein the content type is represented by a file type. (Col. 4 lines 5-67)

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Regarding claim 41, the combination of Shannon and Mizikovsky discloses the communication system of Claim 33 further comprising a gateway disposed between the base station and a wide area network, the gateway including the content filter. (Col. 6 lines 52-59)

Regarding claim 53, Shannon discloses a communication method comprising: providing a base station having a wireless transceiver; coupling a computer to a portable wireless transceiver, the portable wireless transceiver having an associated pricing plan; establishing a wireless communication line for transmitting data between the base station transceiver and the portable transceiver; and from a content filter, blocking data from transmission over the wireless communication link based on the pricing plan and the mobility state. (Col. 5 lines 29-45), but does not expressly disclose a mobility processing routine in the base station for storing a mobility state for the portable wireless transceiver. Mizikovsky discloses a mobility processing routine in the base station for storing a mobility state for the portable wireless transceiver. (Col. 11 line 55-Col. 12 line 40) Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to store a mobility state in the base station in order to centralize the functions of the system.

Regarding claim 54, the combination of Shannon and Mizikovsky the communication method of Claim 53 wherein the mobility state is computed by a processor in the base station. (Mizikovsky Col. 11 line 55-Col. 12 line 40)

Regarding claim 55, the combination of Shannon and Mizikovsky the communication method of Claim 54 wherein the mobility state is computed from data derived from the performance of the wireless communication link. (Mizikovsky Col. 11 line 55-Col. 12 line 40)

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Regarding claim 56, the combination of Shannon and Mizikovsky the communication method of Claim 54 wherein the mobility states is computed from data provided by the portable wireless transceiver. (Mizikovsky Col. 11 line 55-Col. 12 line 40)

Regarding claim 57, the communication method of Claim 53 wherein the content filter further blocks data based on a content type associated with the data. (Col. 5 lines 29-45)

Regarding claim 58, the communication method of Claim 57 wherein the content type is represented by a service port number. (Col. 4 lines 5-67)

Regarding claim 59, the communication method of Claim 57 wherein the content type is represented by a message protocol. (Col. 4 lines 5-67)

Regarding claim 60, the communication method of Claim 57 wherein the content type is represented by a file type. (Col. 4 lines 5-67)

Regarding claim 61, the combination of Shannon and Mizikovsky discloses the communication method of Claim 53 further comprising a gateway disposed between the base station and a wide area network, the gateway including the content filter. (Col. 6 lines 52-59)

Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dennison (US 6,324,404) is another example of relating mobility and content and Robertson (US 6,463,274) equates quality of service and pricing plans.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lewis G. West whose telephone number is 703-308-9298. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703-308-6739. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.



Lewis West
(703) 308-9298
September 23, 2003



VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

9/30/03